

Appl. No. 10/532,491  
Amtd. dated December 20, 2007  
Reply to the FINAL OA of September 21, 2007

**REMARKS**

Claims 11, 13, 15, 16, 23, 27, 29, 32, and 34-39 are presently in the application. The above amendments are being made to place the application in better condition for examination.

Claims 37-39 have been rejected under 35 U.S.C. 112, second paragraph, as being indefinite. Amendments to claims 37-39 have been made to omit the indefinite language in order to overcome the rejection. Withdrawal of the rejection is respectfully requested.

Reconsideration of the rejection of claims 11, 13, 15, 23, 32, 34, and 36-38 under 35 USC 103(a) as being unpatentable over Kluck (US 4596941) in view of Watson (US 3094594) is respectfully requested.

Claim 11 is directed to an electrical machine, comprising  
a housing for the machine, the housing including a housing body (2) and a housing cap (3),  
a brush holder (5) disposed in the housing for holding brushes (6), and  
an elastic region (4; 11) in the housing cap (3) which enables positioning of the brush holder (5) relative to a commutator (7) from outside the housing,  
wherein the elastic region (4) is embodied as *an independently formed elastomer element positioned within and secured to the housing cap (3)*, and  
wherein a seal is achieved between the elastomer element and the housing cap (3),  
and  
*wherein the housing cap (3) is rigid relative to the independently formed elastomer element.*

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Applicant strongly disagrees that the combined references of Kluck in view of Watson teach or suggest in any manner how to modify the end cap to result in the claimed invention of an independently formed elastic region embodied as an independently formed elastomer element disposed in and secured to the housing cap as recited in amended claim 11.

Applicant firmly disagrees with the rejection and believes that present independent claim 11 is distinguished from either Kluck or Watson, or a combination of the two.

Kluck discloses a housing including a housing body, a diaphragm-like housing cap 10, brush holders 13, 14, and an elastic region 24 of the housing cap 10. Kluck lacks having the elastic region being an independently formed elastomer element. The housing cap 10 of Kluck is integrally formed as a single flexible element which includes an elastic region. The examiner notes that Kluck teaches that the housing cap 10 is a flexible plastic.

Watson is relied upon for showing an independently formed elastic region for use in an electrical device. The examiner apparently considers the end cap 23 in Fig. 1 of Watson to satisfy the requirement in claim 11 of “an independently formed elastomer element disposed in and secured in the housing cap.

Clearly, the housing cap 10 of Kluck is integrally formed as a single flexible element, and the housing cap of Watson is integrally formed as a single flexible element. Kluck provides no instructions whatsoever on providing for *an independently formed elastomer element*. Therefore a combination of the two references, Kluck and Watson, is imagined only with knowledge of the present invention, which means by impermissible hindsight.

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Moreover, *there is no teaching in Watson of disposing and securing an elastic region in a housing cap.* On the contrary, in Watson the entire housing cap is made from a flexible material, so that provides only a seal between the housing 21 and the housing cap 23, but not any further sealing between the elastic region and the housing cap, as is the case according to the present invention. In the present invention, the housing cap 3 is made from a more-stable material and *is joined to* a housing 2 by a separate seal 9, since an electrical machine according to the invention must meet substantially more stringent demands in terms of stability and tightness than an electric switch as in Watson.

Therefore one skilled in the art finds *no teaching whatsoever in Watson about how to embody the present invention, that is, to dispose an elastic element inside a housing cap by means of a seal.* Furthermore, the structure of Watson points away from the subject of the invention as defined by pending claim 11. A combination of the Kluck and Watson references is therefore impermissible and in no way renders the present invention obvious. Accordingly, withdrawal of the rejection is respectfully requested.

Claims 27 & 29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Hayashi (US 2002/0175573) in view of Kluck (US 4596941) and Watson (US 3094594).

Claims 27 and 29 are directed to the electrical machine of claim 11, being used in a vehicle for electrically actuated accessories, or a drive for windshield wipers, respectively.

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Hayashi is relied upon for showing a windshield wiper motor for use in a vehicle.

However, as Kluck lacks the elements of the invention as newly claimed, as discussed above, the rejection appears to be moot. Withdrawal of the rejection is respectfully requested.

As it appears that claim 11 is distinguished over the references taken alone or in combination, allowance of all the claims is respectfully requested.

Applicant appreciates the examiner's indication of the allowable subject matter of claims 16 and 35. Claims 16 and 35 have been rewritten in independent form and accordingly should be allowed.

Entry of the amendment is respectfully solicited.

Respectfully submitted,



Ronald E. Greigg  
Registration No. 31,517  
Attorney of Record  
**CUSTOMER NO. 02119**

GREIGG & GREIGG, P.L.L.C.  
1423 Powhatan Street, Suite One  
Alexandria, VA 22314  
Telephone: (703) 838-5500  
Facsimile: (703) 838-5554

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